

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

COASTAL ENERGY CORPORATION

PLAINTIFF

V.

CASE NO. 3:18-CV-3021

**HEAVY CONSTRUCTORS OF ARKANSAS, LLC;
JIMMY JONES EXCAVATION, INC.; and
JAMES L. JONES**

DEFENDANTS

ORDER VACATING DISMISSAL AND FINAL JUDGMENT

On September 21, 2018, the Court entered an Order dismissing this case with prejudice due to the parties' settlement. See Doc. 13. The Court retained jurisdiction to vacate that Order upon good cause shown by Plaintiff that the settlement agreement should be specifically enforced, to include entry of a consent judgment in the event of a default on the part of Defendants. See *id.* Barely a month and a half later, on November 7, 2018, Plaintiff filed a motion for entry of consent judgment, arguing that Defendants had defaulted on their settlement obligations. See Doc. 14. On December 13, 2018, Plaintiff filed a motion to withdraw its prior motion, representing that the parties had resolved their dispute. See Doc. 21, ¶ 3. In its Order of January 8, 2019, granting Plaintiff's motion to withdraw the prior motion, the Court cautioned that it "will not permit this case simply to reopen and close every few months in perpetuity." (Doc. 22). All was quiet for more than two years. Then, on August 12, 2021, Plaintiff filed the instant Motion to Reopen Case, Vacate Dismissal, Substitute Party, and for Entry of Judgment. (Doc. 24). It appears that Defendants are once again in default on their obligations under the settlement agreement.

Defendants are represented by counsel, yet none of them filed a response to the Motion. According to Plaintiff, separate Defendant James L. Jones passed away on or about January 31, 2021, and the Probate Division of the Circuit Court of Carroll County, Arkansas, appointed Brittini R. Sabatini to serve as personal representative of Mr. Jones's estate. Plaintiff further represents that Defendants have failed to make monthly payments, as specified by the parties' settlement agreement, since January 28, 2021.

Upon review of the Motion (Doc. 24), the Brief in Support (Doc. 26), and the Declarations of David Montgomery and Plaintiff's counsel (Docs. 26-5 & 26-6), the Court finds that the Motion should be **GRANTED. IT IS THEREFORE ORDERED** that:

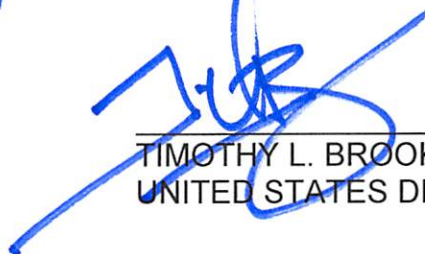
- (1) This case is **REOPENED** due to Defendants' breach of the settlement agreement.
- (2) The Order of dismissal that was entered on September 21, 2018, (Doc. 13), is **VACATED**.
- (3) Brittini R. Sabatini is **SUBSTITUTED** for Separate Defendant James L. Jones as Personal Representative of the Estate of James L. Jones, and the Clerk of Court is directed to amend the docket accordingly.
- (4) Defendants have failed to make monthly payments to Plaintiff according to the terms of the settlement agreement (Doc. 26-2) since January 28, 2021.
- (5) Defendants, jointly and severally, owe Plaintiff the sum of \$283,500.00, per the terms of the settlement agreement.

In view of the findings above, **FINAL JUDGMENT IS ENTERED** in favor of Plaintiff and against Defendants Heavy Constructors of Arkansas, LLC; Jimmy Jones Excavation,

Inc.; and Brittini R. Sabatini, as the Personal Representative of the Estate of James L. Jones, jointly and severally, in the amount of **\$283,500.00**.

IT IS FURTHER ORDERED that Plaintiff's counsel is granted leave to submit a request for fees and costs associated with filing the instant Motion within fourteen days, or by September 10, 2021. In the meantime, the Clerk of Court is directed to keep the case open.

IT IS SO ORDERED on this 30th day of August, 2021.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE